

LIFE AND CHARACTER
OF
CHARLES LINSLEY,
BY
E. J. PHELPS.



A
SKETCH
OF THE
LIFE AND CHARACTER
OF
CHARLES LINSLEY,

READ BEFORE THE
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BY
E. J. PHELPS.

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CHARLES LINSLEY.

THE life of a lawyer, however eminent, if mainly devoted to the pursuit of his profession, affords but few materials for the manufacture of biography. His labors, unlike those of the statesman, or even the politician, are expended for the most part upon private and personal affairs, of but temporary consequence, and having no hold upon history. The attention which courts of justice usually attract is but transitory, and the excitement that sometimes attends them soon passes away. The contests of the forum are rapidly forgotten. Even their results are generally unimportant, except to the parties concerned.

Nor has the advocate, like the successful author, the advantage of leaving his productions behind him, in permanent and accessible form. His best efforts perish with the occasion that produces them. The vigorous practical sense, the wit, the fancy, the eloquence even, that embalmed in the pages of literature might survive through many generations of the brotherhood of scholarship, are scattered by the wayside, never to be gathered up nor remembered. His

more solid and valuable, though less attractive labors in the learning of his profession, rarely receive even a momentary attention, outside the circle of the bench and the bar, and are often least appreciated by those who profit by them most. His reputation, therefore, survives but in tradition. Only the patient student in the science of the law ever traces through the broken fragments of the reports, the life of the master lawyer as well as of the judge, in the gradual growth of great principles, and the establishment of a sound and durable jurisprudence.

It is but little then, at best, that usually remains to be told of the departed lawyer. Something of the manner of man he was, the stand he made, the qualities that attracted, and the force he brought to bear, can perhaps be added to the dry record of the events of his life. But in the main, Mr. Webster's epitome of the career of a successful advocate tells the whole story: *To work hard:—to live well:— to die poor.*

Mr. Linsley was born in Cornwall, in Addison county, on the 29th of August, 1795. His father, Hon. Joel Linsley, one of the earliest and most prominent settlers of that town, came there from Woodbury, Conn., in 1775. I extract from Rev. Mr. Matthews's excellent history of Cornwall, some interesting account of him.

Mr. Matthews says, "Judge Linsley belonged to a class of men whose energy, enterprise and intelli-

gence go far in forming the character of a town. He was indeed formed by nature to exert a controlling influence, in any community in which he might reside. He was appointed town clerk at the organization of the town, and held that office, with the exception of two years, until his decease, in 1818. He represented the town several years in the state legislature; was assistant judge, and afterwards chief judge of the county court. His wisdom was often called into requisition by his fellow citizens, in cases where special executive tact was needful. In every office his duties were discharged with marked ability, and to universal acceptance.

"Few men enjoyed with keener relish the pleasures of social intercourse. Possessing an inexhaustible fund of anecdote and humor, and unusual conversational powers, he was the life of every circle with which he associated. The aged and the young alike found him an agreeable companion. To the unfortunate he was a sympathizing friend; to virtuous indigence a cheerful benefactor; and of every scheme of benevolent effort a munificent patron."

Judge Linsley had two sons who grew up, Charles, the subject of this memoir, and Rev. Joel H. Linsley, D.D., who still survives, a much respected minister of the Congregational church.

Charles grew up to manhood in the county where he was born. He did not enjoy the advantage of liberal studies in early years, but seems to have ac-

quired a good plain education, and a useful appreciation of the necessity of something more. He was first engaged in mercantile pursuits; was employed in a store in Salisbury, where he at the same time taught a singing school; and afterwards for a while in New York. In 1818 he entered into the business of selling goods at Middlebury, in partnership with Benjamin Seymour. This, however, continued but a short time. He had already begun to turn his attention toward the legal profession, and had been earnestly striving during his mercantile life, though with few advantages, to acquire some classical knowledge, as a foundation. Judge Chipman, of Washington, says that he frequently called at Mr. Linsley's store of an evening, and almost always found him, if disengaged from business, poring over Virgil.

About the year 1819 he commenced studying the law in the office of Mr. Starr, in Middlebury, and after remaining there a year or two went to St. Albans and completed his course in the office of Mr., afterwards Chief Justice Royce, working very hard there both in law and classics. In 1823 he was admitted to the bar in Franklin county, returned to Middlebury, and began there the practice of his profession.

At that day, the Addison county bar comprised no ordinary class of men. Perhaps no rural district ever combined in that profession at one time, a greater variety of remarkable ability. Daniel Chipman, nervous, vigorous and luminous, a master of the common

law ; Seymour, acute, subtle, fertile and convincing ; Bates, eloquent, adroit and accomplished ; Edmunds, one of the most finished advocates that ever lived ; Woodbridge, pithy and sagacious ; with Starr, Phelps, and many others who could be named, all strong men, formed an array that might well suggest to the new comer whether his usefulness there was likely to be extensive. That was, doubtless, throughout the state, the golden age of the profession. The business of the courts was large, taxing their utmost capacity to discharge. The people, attracted by the brilliant forensic displays, and unable as now to return almost nightly to their homes, thronged the Court Houses during the entire sessions, and afforded to the advocates the stimulus of an eager and intelligent audience. The occupation of the bar, too, was in itself more intellectual than now. American law was comparatively an open field, with much remaining to be done in the application of English principles to American institutions. The statutes were few, simple and clear. The flood of enactments, ill-advised, and worse expressed, which has since swept over the common law, and obliterated so many of its landmarks, was then unknown. Nor was that age favored with the incredible multiplication of modern reports. The day of case learning had not begun. Much villainous gunpowder of that sort had not yet been "dugged out of the bowels of the earth." They had but few books ; the best collection among them all would have

made but a pitiful figure at a modern auction. But those they had were of the early English classics of the law, and were thoroughly read, and well understood.

The consequence was, that the law had more science and less learning; more of the perfection of reason, and less of the imperfection of popular legislation. Conclusions had to be reasoned out from general principles, rather than hunted for among multitudes of conflicting cases, and practical rules deduced from a discriminating application of the common law, not from the forced misconstruction of incapable statutes. Causes, too, were not then patched up by a referee in a corner, but manfully fought out in open day, before a jury of the county, and the county itself; and called forth the finest powers and most fertile resources of the advocates.

The lawyers of that day, therefore, if less technical, were more logical. If less learned in cases, they were more firmly grounded in principles. If less cunning of fence, they were stouter of arm. And the sentiments of a gentleman, and the education of a scholar, were found no disadvantage even before the plain but appreciative tribunal of the jury box.

Tradition yet speaks of the splendid tournaments of those days, in the Addison county courts; but only tradition. All the actors have passed away. Mr. Linsley, the youngest of all, survived them all, and survived also, most of his later associates. No relic

of those scenes now remains, except the old Court House, itself fallen into "the sere and yellow leaf;" which, by no great stretch of fancy, seems in its desolation and decay, to be still listening mournfully for the remembered voices that shall return no more.

To say that Mr. Linsley, then a young man, took at once a respectable standing among such competitors; that he gradually but steadily advanced in reputation and public regard, till he came to be reckoned among their equals, and that as his eminent seniors, one after another, left the business of the bar, he became one of its acknowledged leaders, and ably maintained that position for many years, is to say much; enough perhaps; but no more than the truth. The early death of Mr. Edmunds, the retirement of Mr. Chipman, the election of Mr. Seymour to the United States senate, and of Mr. Phelps to the bench, and the removal of Mr. Bates to New York, as they successively occurred, left him in the foremost ranks of the profession. No counsel was then more sought than his: few causes of any consequence tried there without his assistance, no influence in that part of the state regarded as more effective with juries, or more useful with the bench. When I came to the bar in 1844, and began to form an appreciative acquaintance with him, he had been in a leading practice for more than ten years, and was in the full maturity of his powers. As a lawyer, he was not remarkably accurate in technicalities, nor greatly versed in cases. Perhaps he might have bene-

ficially pursued the pure learning of the profession farther than he did. But he was well grounded in the principles of the law, and capable of applying them with vigorous logic, and sagacious discrimination. A strong common sense gave practical value to his knowledge, and if he made a mistake it was on the just and sensible side. To the discussion of legal questions he brought a masculine strength of argument, and often originality of thought; and was especially forcible in exposing an untenable or unjust position.

In addressing juries, without being either fluent or elegant, he was always impressive and able, often singularly happy, and sometimes, when roused by an adequate occasion, even eloquent. His strong sense, shrewd perceptions, and correct estimate of character, enabled him generally to present a subject in its most acceptable and forcible light. His addresses, both to courts and juries, were always pervaded by an elevated sentiment, never descending below a just dignity, or appealing to an unworthy prejudice.

He excelled also in the difficult art of cross-examination. While he never unjustly attacked an honest witness, few dishonest ones were able to escape his acute penetration, and cool imperturbable self-possession.

Taking causes as they came, it is fair to say, that no man there did them on the whole better justice. And his shrewdness and remarkable reticence

in business affairs made him a safe and reliable counsellor.

Better than all, his professional life was influenced by high toned and manly sentiments. He did no man's dirty work, and descended to no trick or sharp practice. In the ardor and solicitude of the advocate, he never forgot what belonged to the gentleman, and well discharged the debt which, in hackneyed phrase, every man is said to owe to his profession, by striving to elevate its character, and sustain its dignity.

Mr. Linsley remained in Middlebury, engaged exclusively in business at the bar, and commanding much public respect and confidence, down to 1856, a period of thirty-three years, comprising the prime of his life. Many successive volumes of the Vermont reports show in some measure, how extensively, during twenty-four of those years, he was engaged in the discussion of legal questions, and how considerably he aided in building up the system of Vermont common law, which during this period attained a large share of its growth. With very few exceptions, the supreme court throughout that period was unusually able. Hardly any of their decisions have since been questioned. Taken together, they form no small portion of the groundwork of the law under which we live.

It is a great mistake to suppose that the growth and perfection of such a system is due to the courts alone. None know better than eminent judges how much

they owe to the assistance of an able bar. Of this assistance Mr. Linsley furnished his full share.

Many prominent and exciting trials might be named in which he took part, but time would be wanting, even if those byegone transactions could now be found of interest.

The case of Fisher, a Prussian, indicted for a heavy larceny, was one of the earliest in which he acquired distinction. The fine exterior and accomplishments of Fisher, and the peculiar circumstances of the offence charged against him, attracted much attention to the trial. Mr. Linsley was associated with Gov. Van Ness in the defence, and made a remarkably able and successful argument.

The case of Thompson, twice tried for the murder of his wife by poison, and saved on both trials by a disagreement of the jury, was the occasion of one of his best and most eloquent efforts. A will case of much importance tried in Windsor county, in which he obtained a verdict against the will, was also somewhat celebrated, and his argument was spoken of as being of extraordinary power and effect by those who heard it. The eminent Charles Marsh said he had never known its ability surpassed at the Woodstock bar.

During the period above mentioned Mr. Linsley had also mingled freely in society. He had been twice married, once in 1826, to Miss Sarah, daughter of Hon. Daniel Chipman, who died in 1841, and again

to Miss Emeline Wells, of Middlebury, who survives him. In both these relations he was unusually fortunate and happy.

Few country villages could boast of as good society as was to be found in Middlebury, during the first twenty years of his residence there. Its hospitalities were widely and justly celebrated. The early advantages of such society doubtless influenced his tastes, and formed habits of social intercourse which he retained through life. Possessing agreeable and dignified manners, fine conversational powers, and at times a charming flow of quiet humor, his presence was always acceptable, and often sought. Liberal in his views, and thoughtful in his regard for others, his wit sparkled without wounding, and amused without offending. He was fond of most things that are interesting in social life, especially of music. His old companions will remember how well, with manly voice, and kindling eye, he used to sing a famous lyric of his younger day, inspired by the battle of New Orleans, *The Hunters of Kentucky*.

He carried these habits to a large degree into his associations with the bar. Some twenty years ago he instituted a series of annual entertainments among the Addison county bar. The first was given at his house, and was so remarkably successful, that they were continued for a number of years at the winter term of the supreme court for the county. Though many of the elder lawyers named, had then passed

away, their successors contained among them men of fine talents and unusual social accomplishments. Barber, Beckwith, Tucker, Needham, Kasson and Ozias Seymour among the dead, with others still surviving, made up a bright and kindly circle. Some here will remember, none that shared them will ever forget, those *noctes cœnæ que deorum*. They were much more than mere festivities. All brought forward of their very best. Songs written for the occasion, and well sung: racy and humorous papers, pencil sketches, caricatures in prose and verse: all forms of wit, humor, whimsicality and genial sentiment. Even grave and reverend judges grew rapidly young as the night wore on. These annual meetings were kept up for a long while, and with increasing success. Until death came at last and waited at the feast, dispersed the assembly, and put out the lights.

If it be thought these details are beneath the occasion, and are unduly prolonging this little sketch, I can only say in apology, they are the small lines that give fidelity to the portrait. These "unconsidered trifles" make up, after all, a large part of life. They attach us to our friends when living, and are dwelt upon with most satisfaction after they are gone, when the more important pursuits of their lives have faded into shadows.

In politics, Mr. Linsley early connected himself with the old democratic party, and adhered to it consistently through all fortunes, down to the general

obliteration of party lines in 1861. A strong friend and admirer of Mr. Van Ness, he went with that gentleman in 1827, when he led off for General Jackson. He was associated politically in those days and afterwards, with many leading men in the state. Among them were Col. Hyde, Heman Lowry and Mr. Haswell of Burlington; Judge Kellogg of Brattleboro, Governor Robinson of Bennington, Judge Williams of Rutland. A strong bond of personal friendship seemed to have been formed among this class of men, by their political connection. The party never commanded a majority in Vermont. And during this period of his life Mr. Linsley never held office, except the appointment of United States district attorney, under the administration of President Polk. Indeed he neither sought nor cared for official distinction, preferring the duties of his profession and the enjoyments of private life.

He was an early and strong friend of the rail road enterprises of the state; and was connected with Judge Follett, Mr. Conant, Judge Smalley and others in the projection and final completion, through many trials and difficulties, of the Rutland and Burlington Rail road.

He had a love for literature, and a fine natural taste in it, which he cultivated with care and success. He read much and judiciously, and many fragments among his papers show how earnestly he endeavored in his early manhood to acquire a scholarly style,

and to compensate for the want of previous advantages. To a fine appreciation of the beautiful in nature, he added a lively sensibility to all that was elevated and generous in character. He had, indeed, to greater extent than was generally known beyond his intimate friends, the genuine poetic impulse ; a good deal tempered and held in check, however, by practical good sense.

Of course the demands of a large business placed it out of his power to write much or systematically. The papers he has left of this sort, therefore, are mostly fragmentary. But for sometime before his death, he had been engaged in preparing memoirs of the deceased lawyers of Addison county, and had brought his sketches, or most of them, nearly or quite to a conclusion. I have been favored with a perusal of these papers, and trust they may be placed in the hands of this society, and be published. They will form an interesting addition to the biography of our state, much enhanced in value by his personal knowledge of the men and his nice discrimination in the estimate of character.

As a specimen of the poetic taste and style of Mr. Linsley, I venture to quote a few lines of his, from an extract published in the *Poets and Poetry of Vermont*.

“ How much of joy and woe, of hope and fear
Have found a grave in the departed year :
How many cares are past : how much of all
We loved or feared is gone beyond recall ; •

Full many a cloud has o'er our sunshine rolled,
 And many a heart that loved us now is cold.
 And yet the thoughts are sweet that memory brings,
 As o'er the past she waves her tireless wings,
 Gathers the sweetest flowers of days long past,
 And decks the present year with garlands from the last.
 While fancy brightens all our crowning hours,
 And robes the future in her golden showers.

"Though cold our clime, and rude our mountain scenes,
 Though snow-wreaths crown our hills of evergreens,
 No barren heaths surround our frowning rocks,
 Our loftiest hills are sprinkled o'er with flocks,
 And plenty gaily fills her magic horn,
 And Ceres crowns our fertile fields with corn.
 Give me those lofty mountains, rocks and hills,
 Those deep green vales where flow our sparkling rills ;
 Give me those long-loved friends that time endears,
 That charming spot that nursed my early years ;
 Let me but laugh and weep, and live and die
 Among the scenes where all my friends shall lie ;
 With lightsome heart I'll wish each brother mountaineer
 A happy day, and many a happy year."

I cannot forbear, also, adding a few words of a different sort, from another and incomplete paper, as characteristic of his quiet humor.

"I have seen," he says, "one of the fortunate feeders of the hungriest of cities, clad in his ample doeskins, urging his growing mountain of flesh up Wall street, with what speed he might, sweating along, *his vermil-*

lion countenance illuminated with a carnivorous smile. I have seen him arrive at the Tontine coffee house, only to find that he has been cheated by a false alarm, and that a long long hour must inevitably be interposed between him and his dinner. I remember to have thought this starving sinner not only the biggest but the best picture of disappointment I had ever beheld."

Other extracts might be added, if time and the occasion permitted, enough at least to show that if Mr. Linsley had been able to give persistent attention to literature, he was quite capable of achieving a gratifying success.

In 1856, after a brief absence at the west, engaged in some rail road affairs with his sons, he was induced to remove to Rutland. Business there had greatly increased, while in Addison county it had proportionately diminished. He formed a partnership with John Prout Esq., and entered at once into a very large business, more lucrative, probably, than any he had ever enjoyed. The next six years, the last of his active life, were its busiest. Besides his heavy practice, he held, during the years 1856 and 1857, by appointment of the supreme court, the office of rail road commissioner, being the first incumbent of that place after its creation. He was also collector of the district of Vermont under President Buchanan, in 1860. And in 1858, he represented the town of Rutland in the legislature, and took a leading and useful part in the debates and the business of the session.

But the burden was obviously too great for his increasing years and declining health. Towards the close of the time he began sensibly to fail. Indeed, through most of his residence at Rutland, his efforts at the bar, were not usually equal to those of an earlier period. Those who only knew him then, would hardly realize all he had been in his prime.

Still, at times, the old fire would fitfully blaze up. He argued one cause in particular, before the supreme court at Rutland, which presented the question of the right of a creditor to levy upon a piano forte obtained by a debtor for the use of his daughter. One of the judges of the court has told me with how much feeling and eloquence Mr. Linsley contended for the protection of the means attained by a struggling man, perhaps through much self-denial and sacrifice, for the education of his children.

In 1862, his health had become so much impaired as to render further attention to business out of the question. He returned to Middlebury, to the home where he had spent so much of his life. It was, however, too late for rest to restore him. Though able to be out much of the time, and to engage more or less in the literary employment before alluded to, he gradually declined. He died on the 1st November, 1863.

He was buried from St. Stephens church, of which he was one of the founders, and had long been a member and staunch friend, and from whose doors

eleven of his children out of seventeen who had been born to him had preceded him to the grave.

Peace to his ashes. Honest, kindly, generous, true to his friends, in prosperity modest, in adversity brave, he was a Christian gentleman every inch. This world has need of more such than it contains.



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